



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,936	07/24/2003	Michael Lebner	0156-2009US01	9901
7590	06/14/2005		EXAMINER	
Kevin M. Farrell Pierce Atwood Suite 350 One New Hampshire Avenue Portsmouth, NH 03801			LEWIS, KIM M	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 06/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/625,936

Applicant(s)

LEBNER, MICHAEL

Examiner

Kim M. Lewis

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/31/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Detailed Action.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 10/31/03 has been received and made of record. Note the acknowledged form PTO-1449 enclosed herewith.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,263,970 ("Preller").

As regards claim 1, Preller anticipates applicant's presently claimed invention. More specifically, Preller discloses a two-component device for closing a laceration or incision, comprising: a first component (12) comprising a first adhesive-backed anchoring member and one or more first connecting members (26.1) extending from one edge thereof in a first direction, the first component being at least semi-transparent (col. 2, lines 10-12), a second component (14) comprising a second adhesive-backed anchoring member and one or more second connecting members (24.1) extending from one edge thereof in a second direction generally opposite to the first direction, the second component being at least semi-transparent (col. 2, lines 10-12), and means (30)

Art Unit: 3743

for attaching the one or more first connecting members to the second anchoring member and means (30) for attaching the one or more second connecting members to the first anchoring member, the attachment of the connecting members to the anchoring members forming attached and bridging portions of the one or more connecting members, the attached portions being attached to an anchoring member, and the bridging portions spanning the over-laceration area between the first and second anchoring members (Fig. 1).

The applicant should note that although Preller does not disclose that the device is transparent *per se*. Preller does disclose "at least semi-transparent", which is to some degree transparent.

As regards claim 2, note the pulling elements (tab portions (28)).

As regards claim 16, liners (34) act as reinforcing pull tabs.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 3743

2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,329,564 ("Lebner") in view of Preller.

As regards claim 1, Lebner substantially discloses applicant's presently claimed invention. More specifically, Lebner discloses a two-component device for closing a laceration or incision, comprising: a first component (5) comprising a first adhesive-backed anchoring member and one or more first connecting members (15) extending from one edge thereof in a first direction, a second component (25) comprising a second adhesive-backed anchoring member and one or more second connecting members (35) extending from one edge thereof in a second direction generally opposite to the first direction, and adhesive means for attaching<sup>1</sup> the one or more first connecting members to the second anchoring member and means for attaching<sup>2</sup> the one or more second connecting members to the first anchoring member, the attachment of the connecting members to the anchoring members forming attached and bridging portions of the one or more connecting members, the attached portions being attached to an anchoring member; and the bridging portions spanning the over-laceration area between the first and second anchoring members (col. 5, lines 51-52 and col. 5, line 64-col. 6, line 1).

---

<sup>1</sup> The applicant should note that the "means for" recitation invokes 112, 6<sup>th</sup> paragraph.

<sup>2</sup> The applicant should note that the "means for" recitation invokes 112, 6<sup>th</sup> paragraph.

Lebner fails to explicitly teach that the first and second components are transparent. However, Preller teaches a wound closure device having at least semi-transparent<sup>3</sup> first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components from at least semi-transparent material in order to allow visualization of the wound during the closing process.

As regards claim 2, note pulling elements (40, 45) and col. 5, lines 58-64.

As regards claim 3, Regarding claims 3 and 5-7, Lebner fails to teach that the pulling elements are coded to enable user distinction, that the coding comprises an observable geometric distinction between the shape of the pulling elements and the shape of the anchoring members, that the coding comprises printed indicia enabling user distinction between pulling elements and anchoring members, that the coding on the pulling elements comprises distinguishing colors, or that the anchoring members are provided with one or more alignment indicators.

However, Lebner discloses at col. 4, lines 38-53, that the bandage can include wound closure visual alignment indicators, and further discloses at col. 5, lines 1-21, that the bandage can include indicia (e.g., color, graphic representations, etc.) for the purpose of indicating specific information to the user (e.g., tension).

In light of these disclosures, it would have been prima facie obvious to one

---

<sup>3</sup> Note the discussion of semi-transparent in the anticipation rejection above

Art Unit: 3743

having ordinary skill in that art at the time of invention to provide any portion of the Lebner bandage with indicia of various types (*e.g.*, colors, shapes, printed material, *etc.*) in order to indicate any information.

Regarding claim 4, Lebner discloses that the pulling element and extensions of the connecting members are removable at the perforations (17, 37) following application of the device. The applicant should note that the extension of the connecting members is defined as the portion of the connecting member severed with pulling elements (40, 45).

Regarding claim 8, Lebner discloses that the device is constructed from a vapor-permeable (*i.e.*, allow for the exchange of air) material (col. 3, lines 5-15).

Regarding claims 10 and 12, in col. 1, lines 48-65, Lebner discloses that both the anchoring members and the connecting members are protected by release liners, and that the first and second anchoring members are protected by first and second release liners (col. 1, lines 48-65).

Regarding claim 9, note col. 1, lines 43-46 and col. 1, line 66-col. 2, line 2, which disclose adhesive means.

Regarding claims 11, 13-15, note the rejection of claims 3 and 5-7 above. The same rationale applies to claims 12-15. As such, the claims are not distinguishable over the prior art.

Regarding claims 16 and 17, note the disclosure of reinforcements at col. 2, lines 60- col. 3, line 4.

Art Unit: 3743

Regarding claim 18, mere use of the modified device of discussed above in the rejection of claim 1 above obviates the claimed invention. The applicant should note that manipulating the pulling elements for attachment onto the anchoring member such that the wound or laceration is closed, necessarily involves adjusting the position of anchoring members in both an x and y dimension.

Regarding claims 19-34, note the rejection of claims 2-17, respectively.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-19 and 21-36, respectively of copending Application No. 10/626783 ("the '783 application").

It is clear that substantially all the limitations of claims 1-34 of the present invention are to be found in claims 1, 3-19 and 21-36 of the '783 application. The only limitations not disclosed in claims 1, 3-19 and 21-36 of the '783 application are the limitations of claims 2, 4-18, 20, 22-35, and 37-40 of the '783 application.



of the '783 application are "the first component being transparent" and "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components from at least semi-transparent material<sup>4</sup> in order to allow visualization of the wound during the closing process.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-20 and 23-38, respectively of copending Application No. 10/626,040 ("the '040 application") in view of U.S. Patent No. 5,263,970 ("Preller").

It is clear that substantially all the limitations of claims 1-34 of the present invention are to be found in claims 1, 4-20 and 23-38 of the '040 application. The only limitations not disclosed in claims 1, 4-20 and 23-38 of the '040 application are "the first component being transparent" and "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

---

<sup>4</sup> Note the discussion of semi-transparent in the anticipation rejection above.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components of the '040 application from at least semi-transparent material<sup>5</sup> in order to allow visualization of the wound during the closing process.

This is a provisional obviousness-type double patenting rejection.

10. Claims 1-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/625,937 ("the '937 application") in view of Preller.

It is clear that substantially all the limitations of claims 1-34 of the present invention are to be found in claims 1, 3-18 and 20-34 of the '937 application. The limitations not disclosed in claims 1, 3-18 and 20-34 are "the first component being transparent", "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components of

---

<sup>5</sup> Note the discussion of semi-transparent in the anticipation rejection above.

Art Unit: 3743

the '937 application from at least semi-transparent material<sup>6</sup> in order to allow visualization of the wound during the closing process.

Also, claim 1 of the instant application recites "means for attaching the one or more first connecting members to the second anchoring member and means for attaching the one or more second connecting members to the first anchoring member, the attachment of the connecting members to the anchoring members forming attached and bridging portions of the one or more connecting members, the attached portions being attached to an anchoring member, and the bridging portions spanning the over-laceration area between the first and second anchoring members", while the '937 application recites "adhesive for attaching the one or more first connecting members to the second anchoring member and adhesive for attaching the one or more second connecting members to the first anchoring member, the attachment of the connecting members to the anchoring members forming attached and bridging portions of the one or more connecting members, the attached portions being attached to an anchoring member, and the bridging portions spanning the over-laceration area between the first and second anchoring members". Since adhesive is a means for attaching, the adhesive of the '937 application anticipates the means for attaching of the instant application.

Similarly in claim 18, the instant invention recites "means for attaching", while claim 18 of the '937 application recites "adhesive means for attaching". However, these two limitations anticipate each other.

---

<sup>6</sup> Note the discussion of semi-transparent in the anticipation rejection above.

This is a provisional obviousness-type double patenting rejection.

11. Claims 1 and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 of copending Application No. 10/938163 ("the 163 application") in view of U.S. Patent No. 5,263,970 ("Preller").

It is clear that substantially all the limitations of claims 1 and 18 of the present application are to be found in claims 1 and 16 of the '163 application. The limitations not disclosed in claims 1 and 16 are "the first component being transparent", "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components of the '163 application from at least semi-transparent material<sup>7</sup> in order to allow visualization of the wound during the closing process.

The other differences between claims 1 and 18 of the present application and claims 1 and 16 of the '163 application as follows: 1) the preamble of the present application recites "[a] two-component device for closing a laceration or incision" (claim

---

<sup>7</sup> Note the discussion of semi-transparent in the anticipation rejection above.

Art Unit: 3743

1) and “[a] method for closing a laceration or incision” (claim 18), while the ‘163 application recites “[a] two-component medical device” (claim 1) and “[a] method for closing a wound or incision” (claim 16); and 2) mere word changes which claim the same subject matter, for example, “a first component comprising a first adhesive – backed anchoring member” (claim 1 of the present invention) and “a first component comprising a first flat flexible component” (claim 1 of the ‘163 application). Since the mere word changes claim the same components, the same invention is being claimed.

This is a provisional obviousness-type double patenting rejection.

12. Claims 2-17 and 19-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 the ‘163 application in view of Preller as applied to claims 1 and 18 above, and in further view U.S. Patent No. 6,329,564 (“Lebner”).

With respect to claims 2-17 and 19-34, Lebner either explicitly discloses these features or renders obvious these features. Applicant’s attention is directed to the rejection of these claims above under the headings of Claim Rejections - 35 USC § 102 and Claim Rejections - 35 USC § 102.

This is a provisional obviousness-type double patenting rejection.

13. Claims 1-11, 13-28 and 30-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12, 15-30 and 32-34 of copending Application No. 10,625,785 (“the ‘785 application”) in view of Preller.

It is clear that substantially all the limitations of claims 1-11, 13-28 and 30-34 of the present invention are to be found in claims 1-12, 15-30 and 32-34 of the '785 application. The only limitations not disclosed in claims 1-12, 15-30 and 32-34 of the '785 application are "the first component being transparent" and "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components from at least semi-transparent material<sup>8</sup> in order to allow visualization of the wound during the closing process.

This is a provisional obviousness-type double patenting rejection.

14. Claims 12 and 29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9-11, 19 and 27-29 of the '785 application in view of Lebner.

With respect to claims 12 and 29, claims 1, 9-11, 19 and 27-29 of the '785 application fails to disclose the limitations therein. Lebner, however, discloses two-component device for closing a laceration or incision comprising substantially the same

---

<sup>8</sup> Note the discussion of semi-transparent in the anticipation rejection above.

Art Unit: 3743

components as the instant invention as discussed above in the 103 rejection. Lebner also disclose that the adhesive-backed surfaces of the first and second anchoring member each are protected by a first and a second release liner, the first release liner protecting adhesive-backed surfaces along the edge from which the one or more connecting members extend, and the second release liner protecting the adhesive-backed surfaces along the length of the edge of the anchoring member which is generally opposite the edge from which the one or more connecting members extend. This is done to aid in placement of the device on the user.

In view of Lebner, it would have been obvious to provide the modified device of the '785 application with the adhesive-backed surfaces of the first and second anchoring member each are protected by a first and a second release liner, the first release liner protecting adhesive-backed surfaces along the edge from which the one or more connecting members extend, and the second release liner protecting the adhesive-backed surfaces along the length of the edge of the anchoring member which is generally opposite the edge from which the one or more connecting members extend, in order to aid in release of the device on the user.

This is a provisional obviousness-type double patenting rejection.

15. Claims 1 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 of U.S. Patent No. 6,831,205 ("the '205 patent") in view of U.S. Patent No. 5,263,970 ("Preller").

It is clear that substantially all the limitations of claims 1 and 18 of the present application are to be found in claims 1 and 16 of the '205 patent. The limitations not disclosed in claims 1 and 16 are "the first component being transparent", "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components of the '205 patent from at least semi-transparent material<sup>9</sup> in order to allow visualization of the wound during the closing process.

The other differences between claims 1 and 18 of the present application and claims 1 and 16 of the '205 patent as follows: 1) the preamble of the present application recites "[a] two-component device for closing a laceration or incision" (claim 1) and "[a] method for closing a laceration or incision" (claim 18), while the '205 patent recites "[a] two-component medical device" (claim 1) and "[a] method for closing a wound or incision" (claim 16); and 2) mere word changes which claim the same subject matter, for example, "a first component comprising a first adhesive-backed anchoring member" (claim 1 of the present invention) and "a first component comprising a first flat flexible

---

<sup>9</sup> Note the discussion of semi-transparent in the anticipation rejection above.



Art Unit: 3743

component" (claim 1 of the '205 patent). Since the mere word changes claim the same components, the same invention is being claimed.

16. Claims 2-17 and 19-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 the '205 patent in view of Preller as applied to claims 1 and 18 above, and in further view U.S. Patent No. 6,329,564 ("Lebner").

With respect to claims 2-17 and 19-34, Lebner either explicitly discloses these features or renders obvious these features. Applicant's attention is directed to the rejection of these claims above under the headings of Claim Rejections - 35 USC § 102 and Claim Rejections - 35 USC § 102.

17. Claims 1 and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 of U.S. Patent No. 6,822,133 (the '133 patent") in view of U.S. Patent No. 5,263,970 ("Preller").

It is clear that substantially all the limitations of claims 1 and 18 of the present application are to be found in claims 1 and 16 of the '133 patent. The limitations not disclosed in claims 1 and 16 are "the first component being transparent", "the second component being transparent. These two limitations are recited in both claims 1 and 18 of the present invention.

However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

In view of Preller, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the first and second components of the '936 application from at least semi-transparent material<sup>10</sup> in order to allow visualization of the wound during the closing process.

The other differences between claims 1 and 18 of the present application and claims 1 and 16 of the '133 patent as follows: 1) the preamble of the present application recites "[a] two-component device for closing a laceration or incision" (claim 1) and "[a] method for closing a laceration or incision" (claim 18), while the '133 patent recites "[a] two-component medical device" (claim 1) and "[a] method for closing a wound or incision" (claim 16); and 2) mere word changes which claim the same subject matter, for example, "a first component comprising a first adhesive -backed anchoring member" (claim 1 of the present invention) and "a first component comprising a first flat flexible component" (claim 1 of the '133 patent). Since the mere word changes claim the same components, the same invention is being claimed.

18. Claims 2-17 and 19-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 16 the '133 patent in view of Preller as applied to claims 1 and 18 above, and in further view U.S. Patent No. 6,329,564 ("Lebner").

---

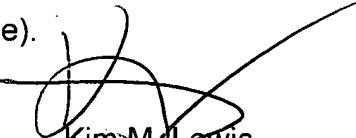
<sup>10</sup> Note the discussion of semi-transparent in the anticipation rejection above.

With respect to claims 2-17 and 19-34, Lebner either explicitly discloses these features or renders obvious these features. Applicant's attention is directed to the rejection of these claims above under the headings of Claim Rejections - 35 USC § 102 and Claim Rejections - 35 USC § 102.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (571) 272-4796. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim M. Lewis

Application/Control Number: 10/625,936

Page 19

Art Unit: 3743

Primary Examiner  
Art Unit 3743

kml

June 11, 2005